

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

PETE LOPEZ,

Petitioner,

vs.

HAROLD W. CLARKE,

Respondent.

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8:05cv97

MEMORANDUM AND ORDER

This matter is before the court on filing no. 13, the Memorandum and Order of May 25, 2005, in which Magistrate Judge F. A. Gossett noted that the Petition for Writ of Habeas Corpus ("§ 2254 petition") filed by Pete Lopez is unclear and difficult to understand. Therefore, Magistrate Judge Gossett directed the petitioner to clarify his claim(s) and to respond to the respondent's Motion for Summary Judgment. In filing no. 13, Magistrate Judge Gossett specifically ordered the following:

1. That by June 30, 2005, the petitioner shall file two pleadings: (a) an Amended Petition and (b) a response to the arguments asserted in the respondent's summary judgment motion;
2. That in the absence of an Amended Petition or a response to the Summary Judgment Motion, the petitioner's § 2254 claims may be subject to dismissal, without further notice, by District Judge Richard G. Kopf;
3. That within 30 days after the petitioner files an Amended Petition and responds to the summary judgment motion, the respondent may reply; and
4. That either party may file a written motion for extension of time.

The petitioner has not filed an Amended Petition, a response to the pending summary judgment motion, or a request for extension of time. I find on the basis of the record that, while the exact nature of the petitioner's due process claim is not clear, no

violation of due process is readily apparent from the record. Therefore, the respondent's Motion for Summary Judgment (filing no. 11) is granted, and the petitioner's § 2254 petition is dismissed with prejudice. A separate judgment will be entered accordingly.

SO ORDERED.

September 22, 2005.

BY THE COURT:

s/ Richard G. Kopf  
United States District Judge